



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2018-0771]**

**RIN 1625-AA08**

**Special Local Regulation; Roanoke River, Plymouth, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation on the navigable waters of the Roanoke River in Plymouth, North Carolina. This special local regulation is intended to restrict vessel traffic on the Roanoke River during a high-speed boat race. The restriction of vessel traffic movement in the regulated area is intended to protect participants and spectators from the hazards posed by high-speed boat races. Entry of vessels or persons into this regulated area is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative.

**DATES:** This rule is effective from 11 a.m. on August 11, 2018, through 5 p.m. on August 12, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0771 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone: 910–772–2221, email Matthew.I.Tyson@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was not notified of the need for this rule until August 2, 2018, and it is impracticable and contrary to the public interest to delay this action. Waiting for a comment period to run would inhibit the Coast Guard’s ability to protect the public and participants from the dangers associated with the high-speed boat race scheduled to start on August 11, 2018.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed to protect the public and participants from the dangers associated with the high-speed boat race scheduled to start on August 11, 2018.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The COTP North Carolina has determined that potential hazards associated with the Virginia Outlaw Drag Boat Association Rumble on the Roanoke scheduled for 11 a.m. through 5 p.m. on August 11 and 12, 2018, is a safety concern for mariners during the high-speed boat race on the Roanoke River in Plymouth, North Carolina. This rule is necessary to protect safety of life from the potential hazards associated with the high-speed boat race.

### **IV. Discussion of the Rule**

This rule establishes a special local regulation on a portion of the Roanoke River from 11 a.m. on August 11, through 5 p.m. on August 12, 2018. The rule will be enforced 11 a.m. through 5 p.m. each of those days. The time of enforcement will be broadcast locally over VHF-FM marine radio. The special local regulation will include all navigable waters of the Roanoke River in Plymouth, North Carolina, from approximate positions: latitude 35°52'25"N., longitude 076°44'33"W., then northwest to latitude 35°52'29"N., longitude 076°44'37"W., then southwest along the shoreline to latitude 35°52'00"N., longitude 076°45'31"W., then south to latitude 35°51'56"N., longitude 076°45'30"W., then northeast along the shoreline to the point of origin, a

length of approximately one mile. The duration of this special local regulation is intended to protect participants and spectators on the navigable waters of the Roanoke River during the high-speed boat race. For safety reasons, no public spectators will be allowed to view the event from the waterway. Vessels may request permission to pass through the regulated area between race heats. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP North Carolina or a designated representative.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic will not be allowed to enter or transit a portion of the Roanoke River from 11 a.m. through 5 p.m. on both August 11 and 12, 2018. The Coast Guard will transmit a Broadcast Notice to Mariners via VHF-FM marine channel

16 regarding the special local regulation. This portion of the Roanoke River has been determined to be a low traffic area during this time of the year. This rule allows vessels to request permission to pass through the regulated area between race heats.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually

and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting approximately six hours on two separate days that prohibits entry into a portion of the Roanoke River. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements,  
Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part  
100 as follows:

**PART 100 – SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.35T05-0771 to read as follows:

**§ 100.35T05-0771 Special Local Regulation, Roanoke River, Plymouth, NC.**

(a) *Location.* The following area is a special local regulation: all navigable waters of the Roanoke River in Plymouth, North Carolina, from approximate positions: latitude 35°52'25"N., longitude 076°44'33"W., then northwest to latitude 35°52'29"N., longitude 076°44'37"W., then southwest along the shoreline to latitude 35°52'00"N., longitude 076°45'31"W., then south to latitude 35°51'56"N., longitude 076°45'30"W., then northeast along the shoreline to the point of origin, a length of approximately one mile.

(b) *Definitions.* As used in this section --

*Captain of the Port (COTP)* means the Commander, Sector North Carolina.

*Official Patrol* means any vessel assigned by the COTP North Carolina with a commissioned, warrant, or petty officer on board and displaying the Coast Guard ensign.

*Participants* means persons and vessels involved in the high-speed boat race.

*Patrol Commander* means a Coast Guard commissioned, warrant, or petty officer designated by the COTP North Carolina for the enforcement of the special local regulation.

(c) *Regulations.* (1) The requirements of § 100.501(b) and (c)(1) and (2) apply to

the area described in paragraph (a) of this section.

(2) With the exception of participants, entry into or remaining in this special local regulation is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's Patrol Commander. All other vessels must depart the special local regulation immediately upon the start of enforcement.

(3) To request permission transit through the special local regulation, contact the COTP North Carolina or the COTP North Carolina's Patrol Commander through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910-343-3882 or on VHF-FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the special local regulation by Federal, State, and local agencies.

(e) *Enforcement period.* This regulation will be enforced from 11 a.m. through 5 p.m. on both August 11 and 12, 2018.

Dated: August 6 2018.

Bion B. Stewart,  
Captain, U. S. Coast Guard,  
Captain of the Port North Carolina.

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